## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE at WINCHESTER

LASONYA MOORE,	)	
Plaintiff,	)	
V.	)	
UCAR CARBON COMPANY, INC.	)	Case No. 4:08-cv-48
Defendant.	)	Judge Mattice
	)	

## MEMORANDUM AND ORDER

Defendant's Motion to Dismiss, pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1406(a), is presently before the Court. [Court Doc. 7]. Defendant contends dismissal is appropriate because both of the parties reside in Lawrence County, Tennessee, which is within the federal judicial district comprising the Middle District of Tennessee.

Venue in this case is governed by 28 U.S.C. § 1391(b), which requires that a civil action be brought in the judicial district where one of the defendants resides, if all defendants reside in the same state, or where the claim arose. In this instance, it is apparent that the defendant does not reside in this judicial district and that the claim did not arise in this district. Accordingly, venue for this action properly rests in the judicial district where the claim arose. The claim arose in Lawrence County, Tennessee, which is in the Middle District of Tennessee. 28 U.S.C. § 123(b).

Under all the facts and circumstances, the Court concludes that rather than dismissing Plaintiff's *pro se* complaint, as Defendant urges, it is in the interest of justice rather to transfer this case to the appropriate federal judicial distriction in which it could

have been brought. 28 U.S.C. § 1406(a); *Kimble v. Cheatham County Jail*, No. 4:09-cv-47, 2009 U.S. Dist. LEXIS 44574, at \* 1 (E.D. Tenn. May 28, 2009). Therefore, Defendant's Motion to Dismiss [Court Doc. 7] is **DENIED**. This case will be **TRANSFERRED** to the United States District Court for the Middle District of Tennessee, Columbia Division.

SO ORDERED this 21st day of August, 2009.

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE